

AUG 01 2011

Board of Vocational Nursing
and Psychiatric Technicians

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**BEFORE THE
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. VN-2007-2730

CARMEN MARIA GUTIERREZ
aka CARMEN MARIA GUTIERREZ-ORTIZ
aka MARIA CARMEN GUTIERREZ
725 Denton Avenue
Corcoran, California 93212

A C C U S A T I O N

Vocational Nurse License No. VN 190482

Respondent.

Teresa Bello-Jones, J.D., M.S.N., R.N ("Complainant") alleges:

PARTIES

1. Complainant brings this Accusation solely in her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians ("Board"), Department of Consumer Affairs.

2. On or about December 23, 1999, the Board issued Vocational Nurse License Number VN 190482 to Carmen Maria Gutierrez, also known as Carmen Maria Gutierrez-Ortiz and Maria Carmen Gutierrez ("Respondent"). The license was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2013, unless renewed.

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4. Code section 118(b) provides, in pertinent part, that the expiration of a license shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Under Code section 2892.1, the Board may renew an expired license at any time within four years after the expiration.

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1 **DRUGS**

2 8. "Nubain," a brand of nalbuphine hydrochloride, is a dangerous drug within the
3 meaning of Business and Professions Code section 4022 in that it requires a prescription under
4 federal law.

5 9. "Dilaudid," a brand of hydromorphone, is a Schedule II controlled substance as
6 designated by Health and Safety Code section 11055(b)(1)(K).

7 **BACKGROUND INFORMATION**

8 10. On or about June 23, 2008, the Board received a complaint from Corcoran District
9 Hospital alleging that Respondent was diverting Nubain from its hospital supply. On or about
10 April 20, 2010, during the Board's investigation of the allegations, Respondent provided a urine
11 sample that tested positive for Dilaudid.

12 **FIRST CAUSE FOR DISCIPLINE**

13 **(Obtained, Possessed, and Self-Administered**
14 **a Dangerous Drug)**

15 11. Respondent is subject to discipline under Code section 2878(a), on the grounds of
16 unprofessional conduct as defined by Code section 2878.5(a), in that on and between March 2008
17 and May 2008, while on duty as a vocational nurse at Corcoran District Hospital, 1310 Hanna
18 Avenue, Corcoran, California, Respondent did the following:

19 a. Respondent obtained an unknown quantity of Nubain, a dangerous drug, in violation
20 of Code section 4022, in that it requires a prescription. Respondent took vials of Nubain from the
21 hospital supply. On many occasions, Respondent would claim that the Nubain vials fell out of
22 the supply cabinet upon opening the door, breaking when making contact with the countertop or
23 floor, and then take them for her own personal use.

24 b. Respondent possessed Nubain, a dangerous drug, in violation of Code section 4022,
25 in that she did not have a prescription for that dangerous drug.

26 c. Self-administered Nubain, a dangerous drug, without direction to do so from a
27 licensed physician and surgeon, dentist or podiatrist.

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SECOND CAUSE FOR DISCIPLINE

(Possessed and Self-Administered a Controlled Substance)

12. Respondent is subject to discipline under Code section 2878(a), on the grounds of unprofessional conduct as defined by Code section 2878.5(a), in that on or about April 20, 2010, while a licensed vocational nurse, Respondent did the following:

a. Respondent possessed Dilaudid, a controlled substance, in violation of Code section 4060, in that she did not have a prescription for that controlled substance.

b. Self-administered Dilaudid, a controlled substance, without direction to do so from a licensed physician and surgeon, dentist or podiatrist.

THIRD CAUSE FOR DISCIPLINE

(Committed Acts of Dishonesty)

13. Respondent is subject to discipline under Code section 2878(j), in that on and between March 2008 and May 2008, while on duty as a vocational nurse at Corcoran District Hospital, 1310 Hanna Avenue, Corcoran, California, Respondent committed acts involving dishonesty by taking Nubain, a dangerous drug, from the hospital supply for her own personal use, as set forth above in paragraph 11.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians issue a decision:

1. Revoking or suspending Vocational Nurse License Number VN 190482, issued to Carmen Maria Gutierrez, also known as Carmen Maria Gutierrez-Ortiz and Maria Carmen Gutierrez;

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1 2. Ordering Carmen Maria Gutierrez, also known as Carmen Maria Gutierrez-Ortiz and
2 Maria Carmen Gutierrez, to pay the Board of Vocational Nursing and Psychiatric Technicians the
3 reasonable costs of the investigation and enforcement of this case, pursuant to Code section
4 125.3; and,

5 3. Taking such other and further action as deemed necessary and proper.

6 DATED: August 1, 2011



TERESA BELLO-JONES, J.D., M.S.N., R.N.
Executive Officer
Board of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs
State of California
Complainant

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